House, Senate Make Rapid Advancement Toward Comprehensive Energy Bill

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Natural Gas Intelligence

Four House committees and a Senate panel voted out energy bills last week that offer a host of financial and tax incentives for oil and natural gas producers, strengthen FERC's enforcement hand somewhat in the energy markets and attempt once again to open the Arctic National Wildlife Refuge (ANWR) to exploration and production activities.

One provision would order FERC to electronically track natural gas prices.

Measures from the House Energy and Commerce, House Resources and House Science committees will be combined with an estimated $19 billion energy tax bill, which the House Ways and Means panel approved last Thursday, into comprehensive legislation that some believe could be voted on by the full House as early as this week. "We want to get this out before the [Easter] break...Friday," a House source told *NGI*.

The House Resources panel stuck ANWR in its energy bill only weeks after Senate Democrats narrowly defeated a Republican campaign to pave the way for drilling in the Arctic refuge. Sen. Pete Domenici (R-NM), chairman of the Senate Energy and Natural Resources Committee, has said that ANWR will not be part of the Senate energy bill, which the panel is due to begin marking up Tuesday. The Senate expects to have its bill ready for floor debate possibly by mid-May, a Capitol Hill aide said.

ANWR "[is] going to pass the House so it's going to be an item in conference," the House source said. "It will make for a very interesting conference" when the Senate and House meet to hash out a final bill.

In addition to ANWR, the bill calls for the Interior secretary to provide the following:

- royalty relief to producers in the Alaskan frontier offshore areas;
- a royalty holiday to producers drilling for deep gas below the ocean floor (15,000 feet and deeper) in the shallow waters of the Gulf of Mexico; and
- some relief, which will be left to the discretion of the Interior secretary, for marginal oil wells (15 barrels or less per day) and marginal gas wells (90 MMBtu/d or less) when commodity prices dip to low levels, such as below $2/MMBtu for gas.

Royalty relief for deep-water production would become law as well, which would make it harder to reverse. Current royalty relief is based on an Interior Department administrative decision. And the measure would give the Interior secretary permanent authority to continue the agency's royalty-in-kind program, which allows producers to pay part of their royalty bills with production.

The estimated $16 billion tax package passed by the Senate Finance Committee last Wednesday would offer several tax credits for traditional oil and gas production, but the focus of the measure is on tax incentives for renewable and alternative fuels' production and consumption. It also would provide financial incentives for the construction of a natural gas pipeline from Alaska to the Lower 48 states.

Martin Edwards of the Interstate Natural Gas Association of America singled out the action on the Alaskan pipeline as one of the highlights of the marathon House-Senate energy mark-up sessions last week, as well as the defeat of a proposal that could have bolstered the ability of California and other states to block gas pipeline, storage and liquefied natural gas (LNG) projects if they believed them to be inconsistent with their Coastal Zone Management Plans.

As for financial/tax incentives, the Senate Finance initiative would do the following:

- provide relief to marginal well producers when oil and gas prices fall below $18/barrel or $2/Mcf, respectively;
- grant a seven-year recovery period and class life of 10 years for gas gathering lines;
- extend the 100% net income limitation for marginal wells through taxable years beginning

before Jan. 1, 2007;

- allow geological and geophysical costs incurred in connection with oil and gas exploration in the United States to be amortized over two years; and
- expand the class of facilities that would eligible for a Section 29 credit related to production of oil and gas from "non-conventional sources."

The House Ways and Means energy tax package targeted many of the same areas: relief for marginal oil and gas producers; expensing of geological and geophysical costs; a credit for fuel produced from non-conventional sources; and the alternative minimum tax preference for intangible drilling costs.

The Republican-led House Energy and Commerce panel completed its broad-based energy legislation in the early hours last Thursday. It gives the Federal Energy Regulatory Commission some expanded authority to deal with fraud and manipulation in the natural gas and electricity markets, but committee Democrats would have preferred to have seen more -- a lot more.

Rep. John Dingell (D-MI) was unsuccessful in his effort to torpedo the entire electricity title of the GOP-crafted bill Wednesday and replace it with one that would have significantly beefed up FERC's enforcement powers and made greater record-keeping demands on energy companies. He argued that it would prevent the "joyful robbing of the citizenry" by giving the Commission the tools to deal with "serious wrongdoing of every kind."

Committee Chairman W.J. "Billy" Tauzin (R-LA) said the bill gives the Commission exactly what it asked for: greater civil and criminal penalty authority, stronger investigative tools and the ability to conduct more price discovery.

One provision (Section 2402) added during mark-up would authorize FERC to issue rules authorizing or establishing an electronic information system "to provide the Commission and the public with timely access to such information as is necessary or appropriate to facilitate price transparency and participation in natural gas markets." It said the public should have access only to aggregate data, or to transaction-specific data that would be in the public domain based on other FERC activities. The bill includes a penalty provision of up to $1 million a day for anyone violating the rules that FERC issues in this regard.

The draft bill initially called for a study to be conducted on the reporting of gas prices to published indexes. The new language surfaced after Rep. Edward Markey (D-MA) advocated more forceful action.

An attempt by Rep. Janice Schakowsky (D-IL) to win refund protection for natural gas customers under the Natural Gas Act, similar to what is already enjoyed by power consumers under the Federal Power Act, also fell flat. She re-introduced her amendment late Wednesday after a "series of discussions" with Tauzin and Rep. Joe Barton (R-TX) failed to produce a compromise proposal. Her measure was defeated by 32 to 21.

Tauzin last Tuesday had pledged to "work something out" with Schakowsky to shield gas customers, but the negotiations apparently reached a stalemate, said Nadeam Elshami, a spokesman for Schakowsky. The lawmaker may continue talks with Tauzin and Barton on the issue, or may try to introduce her amendment during floor debate on the House energy bill, or propose it as a stand-alone bill, he noted. "All the options are on the table."

A proposal by Rep. Gene Green (D-TX) to put all of the natural gas pipelines in California under the jurisdiction of FERC came under immediate attack, and was withdrawn.

"I have some real problems" with Green's amendment, said Rep. Ralph Hall of Texas. "I'm not anxious to hold a gun to California's head, more so out of fear of retribution than...out of love for California. I just hate to furnish the tail for the tail kicking."

Rep. Anna Eshoo (D-CA) also was less than thrilled. "To my friend and colleague, Mr. Green, no thank you," she said, adding that "California hasn't requested this help from anybody."

The House Energy panel's bill also expressed support for expedited construction of an Alaskan pipeline, but only over the Alaska Highway route. If no applications to build the line are filed at FERC within 18 months of the bill's enactment, the committee directed the Department of Energy to carry out a study of alternate approaches to the construction and operation of the project.

The House Science Committee last Wednesday approved a $30 billion energy research and development (R&D) package, which focuses on clean energy and energy-saving initiatives. It also would create a research program to help industry learn more about ultra-deep and unconventional drilling for oil and gas.